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February 17, 2017

By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Telrite Corporation d/b/a Life Wireless Notice of Oral Ex Parte
Presentation; WC Docket Nos. 09-197, 10-90, 11-42**

Dear Ms. Dortch:

On February 15, 2017, Susan Berlin of Telrite Corporation d/b/a Life Wireless (Telrite or the Company) and John Heitmann and Jameson Dempsey of Kelley Drye & Warren LLP met with Trent Harkrader of the Federal Communications Commission (FCC or Commission) Wireline Competition Bureau (Bureau) and Ryan Palmer, Jodie Griffin, Garnet Hanly and Rashann Duvall of the Bureau's Telecommunications Access Policy Division (TAPD) to follow up on the Company's January 27, 2017 ex parte letter¹ and the recent ex parte letters of TracFone² and Sprint.³

¹ See Letter from John Heitmann, Counsel for Telrite Corporation d/b/a Life Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42, 09-197, 10-90 (Jan. 27, 2017).

² See Letter from Mitchell F. Brecher, Counsel for TracFone, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42, 09-197, 10-90 (Jan. 18, 2017) (TracFone Request for Clarification); Letter from Mitchell Brecher, Counsel for TracFone Wireless, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42, 09-197, 10-90 (Feb. 14, 2017) (TracFone WCB/TAPD Letter); Letter from Mitchell Brecher, Counsel for TracFone Wireless, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42, 09-197, 10-90 (Feb. 14, 2017).

³ See Letter from Norina T. Moy, Director, Government Affairs, Sprint, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42, 09-197, 10-90 (Jan.

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In the meeting, Telrite distributed and discussed the points made in the attached presentation. Telrite highlighted that its new mobile BIAS Lifeline service plans offer consumers robust and unique service offers made possible because of the Commission's decision to foster stability in customer-carrier relationships through the extension of the benefit port freeze.⁴ In addition, Telrite offers the following points regarding devices reasonably deemed necessary for consumers to make use of mobile BIAS services and about the nature of services that meet the current definition of mobile BIAS.

Devices. Telrite agrees that consumers receiving mobile BIAS offerings should have devices capable of handling such service. In the context of today's Lifeline program, those devices should be capable of handling data at 3G or better speeds.⁵ Telrite provides all of its customers with 3G-or-better SIM cards and handsets, and enables consumers to bring their own 3G-or-better devices to use with Telrite's Lifeline service offerings.⁶

Mobile BIAS. Telrite provides its Lifeline subscribers with a variety of products that meet or exceed the Lifeline Modernization Order's minimum service standards, including plans that offer cellular data as well as plans that offer unlimited Premium Wi-Fi service. Telrite does not rely on free public Wi-Fi to meet these standards. Instead, Telrite's Premium Wi-Fi service offering provides secure VPN access to iPass's private network of 34 million access points,⁷ which include private home and commercial access points.⁸ Telrite's unlimited Premium Wi-Fi

19, 2017) (Sprint Request for Clarification); Letter from Norina Moy, Government Affairs, Sprint Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42, 09-197, 10-90 (Feb. 15, 2017) (Sprint WCB/TAPD Letter).

⁴ See 47 C.F.R. § 54.411(a).

⁵ Contrary to TracFone's claim, 3G is the governing speed threshold for mobile BIAS in the Lifeline program. See 47 C.F.R. § 54.408(b)(2). TracFone's request for clarification on this issue is really a request for a rule change. See TracFone WCB/TAPD Letter, Enclosure at 1.

⁶ TracFone's assertion that these devices must be "smartphones" is yet another claim without basis in the current Lifeline program rules. See TracFone Request for Clarification at 2-3. Once again, TracFone is requesting a new rule, rather than clarification of an existing one.

⁷ Telrite provides this service through the resale of iPass's network. TracFone's suggestion that mobile BIAS cannot be provided through the resale of underlying provider networks would render its business model untenable. See TracFone WCB/TAPD Letter, Enclosure at 1 (asserting that BIAS "provided by others" cannot count as BIAS). Once again, nothing in today's Lifeline rules supports or can be "clarified" to support TracFone's assertion.

⁸ Sprint's assertion that mobile BIAS must "provide service in locations (such as a Lifeline customer's home) that otherwise lack[] broadband access" is not only unsupported by today's

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offering provides consumers with a compelling alternative to the cellular-data-centric plans offered by most Lifeline ETCs today. Telrite's Premium Wi-Fi service offers consumers an unlimited amount of data on network connections that are typically faster than traditional 3G cellular data service. For Lifeline subscribers who chose a service provider based on the data component of a bundled service offering, they can in many markets now choose between Telrite's Premium Wi-Fi service, a unique service with unlimited data and faster speeds, but with more limited coverage,⁹ and other ETCs' more limited and slower 500 MB 3G cellular service offerings that offer more geographically widespread availability.¹⁰

The Lifeline Modernization Order expressly calls for innovation in service offerings and in no way limits the definition of mobile BIAS to mobile data services provided over a provider's own cellular data network.¹¹ Today's technology-neutral Lifeline program rules do not in any way limit the definition of mobile BIAS to services provided over a cellular data network. Indeed, innovative services that utilize unlicensed spectrum are not excluded from definition of mobile BIAS. Telrite's Premium Wi-Fi service meets the definition of mobile BIAS and the Commission should reject calls to rewrite the rules in a manner that would limit mobile BIAS to cellular data service. Non-Lifeline subscribers may choose Wi-Fi-enabled mobile broadband service and other innovative service offerings from cable companies and others, or they may choose more familiar all-cellular offerings. Lifeline-eligible subscribers should be able to make similar choices based on the plans that are the most affordable and best serve their needs. Fortunately, today's Lifeline program rules allow them to do just that. The Commission should decline any requests for "clarification" that would rewrite these rules so as to preclude access to the kinds of innovative and robust service offerings the Commission had hoped to spur through expansion of the port freeze to mobile BIAS offerings.

Lifeline program rules, it makes no sense for a program focused on making available affordable broadband access. *See* Sprint WCB/TAPD Letter at 1.

⁹ Telrite provides these subscribers with 10 MB of cellular data for free with the option to purchase additional cellular data at competitive rates.

¹⁰ Depending on the handset used with these plans, consumers can typically access unsecure public Wi-Fi networks for additional data. Most ETCs make available additional cellular data at competitive prices.

¹¹ *See* Lifeline Modernization Order ¶¶ 49 & n.132, 373. Sprint's proposed standard would render TracFone and every other major Lifeline service provider reliant on resale unable to provide such service. *See* Sprint WCB/TAPD Letter at 1; Sprint Request for Clarification at 1.

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Pursuant to Section 1.1206(b) of the FCC's rules, this letter is being filed electronically.

Respectfully submitted,



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Enclosure

ENCLOSURE

Telrite Corporation d/b/a Life Wireless Meeting with WCB

February 15, 2017

Overview

“By allowing support for standalone broadband services with Lifeline, we add an additional measure of consumer choice as well as the opportunity for innovative providers to serve low-income consumers in new ways.” – LMO ¶ 49 & n.132

1. Telrite’s plans and devices comply with the letter and spirit of the Lifeline Modernization Order (LMO) and are made possible by the 12-month benefit port freeze
2. Telrite’s Premium Wi-Fi is BIAS that meets the Lifeline broadband minimum service standards
3. Telrite’s handsets meet the requirements of the LMO

Telrite's plans comply with the LMO

Customer	DEVICE*	COST	TALK	TEXT	DATA	MMS
Legacy feature phone subscribers	3G-capable handset with Internet browser**	FREE	500 Min	Unlimited	Unlimited Premium Wi-Fi + 500 MB Cellular	25
Legacy smartphone subscribers	Smartphone	FREE	500 Min	Unlimited	Unlimited Premium Wi-Fi + 10 MB Cellular	25
New subscribers	Smartphone	FREE	500 Min	Unlimited	Unlimited Premium Wi-Fi + 10 MB Cellular	25
Tribal (OK)	Smartphone	FREE	Unlimited	Unlimited	Unlimited Premium Wi-Fi + 1 GB Cellular	100

*Since 2014, all subscriptions have come with a 4G/LTE SIM card. Previously, all SIM cards were 3G capable

**Free upgrade to smartphone available after 180 days of service

What is Telrite's Premium Wi-Fi?

- Telrite's Premium Wi-Fi is a broadband service that leverages the nationwide access point network of iPass, a Premium Wi-Fi service provider
 - **Broad coverage:** 34 million broadband access points via Wi-Fi in the US alone
 - **Seamless experience:** Automatically connects to the strongest broadband signal
 - **Secure connection:** Provides enhanced security through a last-mile virtual private network (VPN)
 - **Closes the homework gap:** Permits tethering of laptops, tablets, and other peripheral devices
- Telrite's Premium Wi-Fi is distinguishable from traditional free, public Wi-Fi services and public Wi-Fi aggregators

Telrite's Premium Wi-Fi is BIAS

- **Telrite's Premium Wi-Fi meets the definition of BIAS:**
 - A mass-market retail service
 - By wire or radio
 - Provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service
- **Telrite's Premium Wi-Fi also meets the definition of mobile BIAS.** Premium Wi-Fi is BIAS that serves end users primarily using mobile stations
- **The Commission need not classify "Wi-Fi," which is a wireless local access link,** in order to declare that Telrite's Premium Wi-Fi service, which includes both the wireless local access component and the underlying broadband access, is BIAS that may be used to meet the broadband minimum service standards

Telrite's Premium Wi-Fi meets the speed and quality MSS of the LMO

- The LMO requires Lifeline-supported mobile broadband to offer at least 3G speeds. (LMO ¶ 96)
 - The LMO does not define “3G,” but the *2011 USF/ICC Transformation Order* found that a 3G network “meet[s] or exceed[s] an outdoor minimum of 200 kbps downstream and 50 kbps upstream to handheld mobile devices”
 - Telrite's Premium Wi-Fi provides speeds well above 3G speeds
- Because it relies on fixed BIAS networks, Telrite's Premium Wi-Fi also provides speeds as good as or better than traditional fixed BIAS
- Telrite's Premium Wi-Fi meets the 500 MB data minimum service standard, offering consumers *unlimited* data through Premium Wi-Fi
- Telrite's Premium Wi-Fi is proof that the letter and spirit of the broadband benefit port freeze is working as intended to spur innovation, adoption, smartphone distribution, more robust service plans for consumers and healthy competition

Telrite's 3G-enabled handsets meet the requirements of the LMO

- 70 percent of Telrite's consumers have smartphones
- The LMO does not require ETCs to provide smartphones to consumers. Rather, if an ETC provides handsets to consumers, (1) all devices must be Wi-Fi enabled and (2) the ETC must make available hotspot-capable devices. (LMO ¶ 366-367)
- On GSM networks, the operative equipment is the SIM card, which the provider always controls, and not the device
- Telrite's 3G handsets provide access to BIAS through a pre-installed Internet browser
- Handsets also provide access to specialty applications (e.g., Twitter) and email
- The Commission should declare that, as long as a device is able to support 3G or better speeds and the service plan includes at least 500 MB of data, the service is eligible for the 12-month benefit port freeze

Telrite's Lifeline offerings comply with the letter and spirit of the LMO

“We encourage Lifeline providers to continue to push the envelope in search of better ways to deliver broadband to their subscribers.” – LMO ¶ 373

- Telrite offers traditional plans that include cellular access to broadband, as well as plans that include access to broadband via Premium Wi-Fi
- While the substantial majority of customers have smartphones, all have devices capable of accessing the Internet at 3G or higher speeds
- The letter and spirit of the broadband benefit port freeze is working as intended to spur innovation, adoption, smartphone distribution, more robust service plans for consumers and healthy competition